

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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| In re Terrorist Attacks on September 11, 2001 | 03-md-1570 (GBD)(SN) ECF Case |
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This Document relates to:

Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al., No. 03-cv-9849 (GBD)(SN)

**BURNETT PLAINTIFFS' NOTICE OF MOTION FOR ENTRY OF DEFAULT
JUDGMENTS AGAINST THE TALIBAN**

PLEASE TAKE NOTICE that upon the accompanying declaration of John M. Eubanks (hereinafter "Eubanks Decl."), with exhibits, and the accompanying memorandum of law, and in accordance with this Court's July 11, 2022 Order setting forth such information the Court requires to adjudicate this motion (*see* ECF No. 8198), the *Burnett* Plaintiffs respectfully request Final Default Judgments Against The Taliban for pecuniary and non-pecuniary loss (including, but not limited to, economic-loss damages, conscious pain-and-suffering damages, solatium damages, pre-judgment interest, and trebled damages under 18 U.S.C. § 2333(a) and/or punitive damages under the common law) in favor of Plaintiffs. The judgment amounts sought here are based on (1) prior judgments entered by this Court for solatium damages, conscious pain-and-suffering damages for 9/11 decedents, economic-loss damages for 9/11 decedents, and pain-and-suffering damages for 9/11 victims who sustained personal injuries on the day of the September 11, 2001 terrorist attacks for individual Plaintiffs within this MDL against *inter alia* the Islamic Republic of Iran; (2) spreading the Court's prior orders and judgments regarding the appropriate value of solatium or intentional infliction of emotional distress damages to those spouses, children, parents, and siblings for whom judgments have not yet been entered against the Islamic Republic of Iran within this MDL; and (3) spreading the Court's prior orders and judgments regarding the appropriate value of conscious pain-and-suffering awards for 9/11 decedents for whom judgments

have not yet been entered against the Islamic Republic of Iran within this MDL. The *Burnett* Plaintiffs further seek the Court's permission to present to the Court, or a Special Master should the Court so decide given the volume of claims impacted, the following: (1) motions for economic-loss damages for those 9/11 decedent estates for whom such damages have not been previously awarded and/or for those 9/11 decedent estates for whom damages for conscious pain-and-suffering damages are being sought through this motion for the first time within this MDL; (2) motions for solatium damages for a limited number of non-immediate family members for whom the Court has not already entertained motions for solatium damages as the "functional equivalents" of immediate family members to a 9/11 decedent; and (3) motions for pain-and-suffering and economic damages for individuals who sustained personal injuries proximately caused by the terrorist attacks on September 11, 2001.

The Personal Representatives identified in Exhibit B-1 move for entry of final judgment against The Taliban under the Anti-Terrorism Act, 18 U.S.C. § 2333 ("ATA"), for conscious pain-and-suffering damages of \$2,000,000 for each 9/11 decedent's estate for whom the Court has previously entered judgment on behalf of the estate in prior judgments within this MDL against the Islamic Republic of Iran. The Personal Representatives in Exhibit B-1 who have obtained prior economic-loss damages judgments against the Islamic Republic of Iran within this MDL seek entry of final judgment against The Taliban under the ATA in the amounts previously awarded by this Court against the Islamic Republic of Iran as set forth in Exhibit B-1. The Personal Representatives in Exhibit B-2 bring claims on behalf of estates of individuals who were killed in the terrorist attacks on September 11, 2001 and were United States nationals at the time of their death but for whom judgments have not previously been entered on their behalf in this MDL against the Islamic Republic of Iran. The Personal Representatives in Exhibit B-2 move for entry

of final judgment against The Taliban under the ATA for conscious pain-and-suffering damages of \$2,000,000 for each 9/11 decedent's estate for whom the Court has not previously entered judgment on behalf of the estate in prior judgments within this MDL against the Islamic Republic of Iran. The Personal Representatives in Exhibit B-2 along with the Personal Representatives in Exhibit B-1 for whom no economic-loss damages have yet been awarded seek leave from the Court to submit future motions asserting economic-loss damages to the Court or to a Court-appointed Special Master for final judgment incorporating these economic-loss damages. The Personal Representatives in Exhibit B-3 bring claims on behalf of estates of individuals who were killed in the terrorist attacks on September 11, 2001 but who were not United States nationals at the time of their death (or whose American nationality has not been confirmed as of the date of filing). The Personal Representatives in Exhibit B-3 move for entry of final judgment against The Taliban under New York common-law principles for conscious pain-and-suffering damages of \$2,000,000 for each 9/11 decedent's estate. The Personal Representatives in Exhibit B-3 also seek leave from the Court to submit future motions asserting economic-loss damages to the Court or to a Court-appointed Special Master for final judgment incorporating these economic-loss damages.

The Plaintiffs in Exhibit C-1—who are either United States nationals or immediate family members of 9/11 decedents who were United States nationals at the time of their death—move for entry of final judgment against The Taliban under the ATA for solatium damages for these Plaintiffs for whom the Court has previously entered judgment on their behalf in the values set forth on Exhibit C-1. Generally, these solatium values have been established as \$12,500,000 for the spouse of a 9/11 Decedent; \$8,500,000 for the child of a 9/11 Decedent; \$8,500,000 for the

parent of a 9/11 Decedent; and \$4,250,000 for the sibling of a 9/11 Decedent.¹ The Plaintiffs in Exhibit C-2—who are either United States nationals or immediate family members of 9/11 decedents who were United States nationals at the time of their death—move for entry of final judgment against The Taliban under the ATA for solatium damages in the amounts set forth above even though prior judgments have not yet been entered on their behalf against the Islamic Republic of Iran within this MDL. The Plaintiffs in Exhibit C-3—who are either foreign nationals or whose nationality has not yet been determined and who are immediate family members of 9/11 decedents who were either foreign nationals or whose nationality has not yet been determined at the time of their death—move for entry of final judgment against The Taliban under New York common-law principles for emotional-distress damages commensurate with the solatium damages awarded to those Plaintiffs seeking solatium claims under the ATA.

The Plaintiffs in Exhibit D-1—who are United States nationals—move for entry of final judgment against The Taliban under the ATA for pain-and-suffering damages arising from personal injuries proximately caused by the terrorist attacks on September 11, 2001 and for whom the Court has previously entered judgment on their behalf against the Islamic Republic of Iran in the values set forth on Exhibit D-1. The Plaintiffs on Exhibit D-2—who are United States nationals—move for leave to submit declarations and evidence to the Court or to a Court-appointed Special Master to award damages against The Taliban under the ATA for personal injuries sustained as a proximate cause of the terrorist attacks on September 11, 2001. The Plaintiffs in Exhibit D-3—who are either foreign nationals or whose nationality on September 11, 2001 has not yet been ascertained—move for leave to submit declarations and evidence to the Court or to a

¹ See July 30, 2012 Report and Recommendation of Magistrate Judge Frank Maas (ECF No. 2618) (adopted by District Judge George B. Daniels on October 3, 2012 (ECF No. 2623)). Slight variations may be found in prior judgments issued for Plaintiffs found to be the “functional equivalents” of immediate family members.

Court-appointed Special Master to award damages against The Taliban under New York common-law principles for personal injuries sustained as a proximate cause of the terrorist attacks on September 11, 2001.

The Plaintiffs on Exhibit E-1—who are either United States nationals or whose claims derive from their relationship with 9/11 decedents who were United States nationals at the time of their death—move for leave to submit declarations and evidence to the Court or to a Court-appointed Special Master to determine whether they qualify as the functional equivalents of an immediate family member of a 9/11 decedent permitting them to be awarded solatium damages under the ATA in accordance with this Court’s prior decisions. The Plaintiffs on Exhibit E-2—who are either foreign nationals or whose nationality has not yet been determined and who are seeking the Court’s determination of whether they qualify as the functional equivalents of immediate family members of 9/11 decedents who were either foreign nationals or whose nationality has not yet been determined at the time of their death—move for leave to submit declarations and evidence to the Court or to a Court-appointed Special Master to determine whether they qualify as the functional equivalents of an immediate family member of a 9/11 decedent permitting them to be awarded solatium damages under New York law in accordance with this Court’s prior decisions.

The *Burnett* Plaintiffs seeking damages under the ATA move that such damages be trebled under the ATA and include prejudgment interest at the rate of 4.96 percent, compounded annually, from the period from September 11, 2001, until the date of the judgment for damages entered against the Taliban. The *Burnett* Plaintiffs seeking damages under the common law move, in light of prior decisions before the Court, to include prejudgment interest at the same rate of 4.96 percent, compounded annually, from the period from September 11, 2001, until the date of the judgment

for damages entered against The Taliban. In addition, the *Burnett* Plaintiffs move for permission to seek punitive and economic damages at a later date to the extent appropriate.

Dated: September 26, 2022

Respectfully submitted,

MOTLEY RICE LLC

/s/ John M. Eubanks

John M. Eubanks, Esq.

Jodi Westbrook Flowers, Esq.

Robert T. Haefele, Esq.

Jade Haileselassie, Esq.

28 Bridgeside Boulevard

Mount Pleasant, SC 29464

Tel: (843) 216-9000

Fax: (843) 216-9450

Email: jeubanks@motleyrice.com